

**UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF
PENNSYLVANIA**

JUSTIN SHARRATT
1348 Lucia Drive
Canonsburg, Pennsylvania 15317

Plaintiff,

vs.

JOHN MURTHA,
in his individual capacity,
2238 Woodcrest Drive
Johnstown, Pennsylvania 15905

Defendant.

Civil Action No. 3:08 – cv – 229

Judge Kim R. Gibson

**MOTION FOR RECONSIDERATION OF THIS COURT’S ORDER OF JULY 13, 2009
GRANTING THE GOVERNMENT’S MOTION TO SUBSTITUTE THE UNITED
STATES FOR DEFENDANT JOHN MURTHA AND MOTION REQUESTING ORAL
ARGUMENT ON THE GOVERNMENT’S RULE 12 MOTION TO DISMISS
PLAINTIFF’S BIVENS COUNTS.**

AND NOW COMES the Plaintiff, Justin Sharratt, by and through his attorney, Noah Geary, Esquire, and respectfully submits this Motion for Reconsideration of this Court’s Order of July 13, 2009 Granting the Government’s Motion to Substitute the United States for Defendant John Murtha and Motion Requesting Oral Argument on the Government’s Rule 12 Motion to Dismiss Plaintiff’s Bivens Counts, and in support, avers as follows:

1. Several hours ago, this Honorable Court issued a Memorandum Opinion and Order of Court granting the Government’s Rule 12 Motion to Substitute the United States for Defendant John Murtha as to Plaintiff’s State Law tort claims.
2. Because this case involves important issues of a Constitutional dimension, the Plaintiff assumed this Court would entertain Oral Argument on the Government’s Motion.

3. Plaintiff therefore hereby respectfully requests this Honorable Court to grant this Motion for Reconsideration and to schedule Oral Argument on the Government's Motion for Substitution of a Party.

4. As this Court has yet to rule on the Government's Rule 12 Motion to Dismiss Counts I, II and III of Plaintiff's Complaint, Plaintiff hereby respectfully requests this Court to schedule and entertain Oral Argument on the Government's Motion to Dismiss Plaintiff's Bivens claims.

5. It is important that Plaintiff's counsel be permitted to advance Plaintiff's arguments via Oral Argument in this important case.

WHEREFORE, Plaintiff hereby respectfully requests this Honorable Court to (i) grant this Motion for Reconsideration and to schedule Oral Argument on the government's Motion for Substitution; and (ii) to schedule Oral Argument on the Government's Motion to Dismiss Plaintiff's Bivens claims.

July 13, 2009

Respectfully submitted,

/s/ Noah Geary
Noah Geary, Esquire
Attorney for Plaintiff
225 Washington Trust Building
Washington, PA 15301
(724) 222-3788
PA I.D. # 78283

CERTIFICATE OF SERVICE.

I, Noah Geary, hereby certify that I served the foregoing **Motion for Reconsideration of this Court's Order of July 13, 2009 Granting the Government's Motion to Substitute the United States for Defendant John Murtha and Motion Requesting Oral Argument on the Government's Rule 12 Motion to Dismiss Plaintiff's Bivens Counts** upon Defense Counsel, Paul Werner, Esquire, on this day, via email:

Paul E. Werner, Esquire
U.S. Department of Justice
1425 New York Avenue, N.W.
Washington, DC 20005
paul.werner@usdoj.gov

Date: July 13, 2009

/s/ Noah Geary
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